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FEB 14 2007

PTO/SB/61 (09-06)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)
16869P-023900US

First named inventor: Daisuke Matsubara

Art Unit: 2616

Application Number: 09/816,067

Examiner: Daniel J. Ryman

Filed: March 22, 2001

Title: Method and Apparatus for Providing a Quality of Service Path Through Networks

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- Small entity — fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.
- Other than small entity — fee \$ 500 (37 CFR 1.17(l)).

2. Reply and/or fee

- A The reply and/or fee to the above-noted Office action in the form of
Amendment (identify the type of reply):

- has been filed previously on _____.
- is enclosed herewith.

- B The issue fee of \$ _____

- has been paid previously on _____.
- is enclosed herewith.

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3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430.

5. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

Date

George B. F. Yee

Typed or printed name

37,478

Registration Number, if applicable

Two Embarcadero Center, Eighth Floor

Address

650-326-2400

Telephone Number

San Francisco, California 94111-3834

Address

Enclosure Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unavoidable delay**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

2/12/07

Date

Signature

Typed or printed name of person signing certificate

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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature

2/12/07

Date

George B. F. Yee

Typed or printed name

37,478

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The Office action mailed May 16, 2006 was never received by Applicant or by Applicant's legal representatives. The mailing address properly identifies Applicant's legal representatives. However, a review of the file jacket and of the docket records (Exhibit A) maintained by Applicant's legal representatives indicates that the Office action was never received. Neither Applicant nor Applicant's legal representatives knew of the mailing of the Office action. As of the date of this statement, the Office action has not been received by Applicant or Applicant's legal representatives; the Office action is presumed to have been lost in the U.S. Post Office, or never actually left the U.S. PTO.

Applicant and Applicant's legal representative first became aware of the Office action on November 15, 2006, one day prior to the expiration of the maximum statutory period for responding to the Office action. Due to lack of time, a proper response could not be prepared in time for filing. Consequently, the application became unavoidably abandoned.

Since the application became abandoned, Applicant took action to assess whether or not to proceed with reviving the application. Having decided to proceed to revive the application, Applicant took action to study and prepare instructions for counsel to draft a proper response to the Office action. Instructions from Applicant were received on January 31, 2007 by counsel of record.

(Please attach additional sheets if additional space is needed.)